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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% ***Judgment reserved on: 07.08.2026***
Judgment pronounced on: 13.08.2026
Judgment uploaded on: 13.08.2026

\# **CNR No. DLHC010109142025**

\+ W.P.(C) 2704/2025, CM APPL. 12866/2025 and CM APPL. 14886/2026

ARUN KUMAR JAIN .....Petitioner
Through: Mr. Abhishek Garg and Mr. Naman Mehta, Advs.

versus

ADDITIONAL COMMISSIONER CGST DELHI WEST COMMISSIONERATE & ORS. .....Respondents
Through: Mr. Anurag Ojha, SSC with Mr. Dipak Raj, Mr. Aryaman Singh Chouhan and Mr. Aditya Chaudhary, Advs.

\# **CNR No. DLHC010128102025**

\+ W.P.(C) 3107/2025, CM APPL. 14692/2025 and CM APPL. 10630/2026

PREM CHAND GUPTA .....Petitioner
Through: Mr. Abhishek Garg and Mr. Naman Mehta, Advs.

versus

ADDITIONAL COMMISSIONER CGST DELHI WEST COMMISSIONERATE & ORS. .....Respondents
Through: Ms. Anushree Narain, SSC, Mr. Apurv Yadav and Mr. Naman Choula, Advs.

\# **CNR No. DLHC010128122025**

\+ W.P.(C) 3109/2025 and CM APPL. 14699/2025

RAJEEV GUPTA .....Petitioner

Through: Mr. Abhishek Garg and Mr. Naman Mehta, Advs.

versus

ADDITIONAL COMMISSIONER CGST DELHI WEST COMMISSIONERATE & ORS. .....Respondents

Through: Mr. Anurag Ojha, SSC with Mr. Dipak Raj, Mr. Aryaman Singh Chouhan and Mr. Aditya Chaudhary, Advs.
Ms. Anushree Narain, SSC, Mr. Apurv Yadav and Mr. Naman Choula, Advs.
Mr. Aditya Singla, SSC-CBIC with Ms. Arya Suresh Nair, Adv.

\# **CNR No. DLHC010131042025**

\+ W.P.(C) 3140/2025 and CM APPL. 14829/2025

PREM CHAND GUPTA .....Petitioner

Through: Mr. Abhishek Garg and Mr. Naman Mehta, Advs.

versus

ADDITIONAL COMMISSIONER CGST DELHI WEST COMMISSIONERATE & ORS. .....Respondents

Through: Ms. Anushree Narain, SSC, Mr. Apurv Yadav and Mr. Naman Choula, Advs.

\# **CNR No. DLHC010131232025**

\+ W.P.(C) 3159/2025 and CM APPL. 14867/2025

PREM CHAND GUPTA .....Petitioner

Through: Mr. Abhishek Garg and Mr. Naman Mehta, Advs.

versus

ADDITIONAL COMMISSIONER CGST DELHI WEST COMMISSIONERATE & ORS. .....Respondents

Through: Ms. Anushree Narain, SSC, Mr. Apurv Yadav and Mr. Naman Choula, Advs.

CNR No. DLHC010131652025

\+ W.P.(C) 3201/2025 and CM APPL. 14933/2025

RAVI AGGARWAL .....Petitioner

Through: Mr. Abhishek Garg and Mr. Naman Mehta, Advs.

versus

THE ADDITIONAL COMMISSIONER CGST, DELHI WEST COMMISSIONERATE & ORS. .....Respondents

Through: Mr. Anurag Ojha, SSC with Mr. Dipak Raj, Mr. Aryaman Singh Chouhan and Mr. Aditya Chaudhary, Advs.

CNR No. DLHC010140252025

\+ W.P.(C) 3373/2025 and CM APPL. 15963/2025

VINAY MITTAL .....Petitioner

Through: Mr. Abhishek Garg and Mr. Naman Mehta, Advs.

versus

ADDITIONAL COMMISSIONER CGST DELHI WEST COMMISSIONERATE & ORS. .....Respondents

Through: Ms. Samiksha Godiyal, SSC-CBIC with Mr. Tenzing Namgyal Bhutia and Mr. Ritiwik Narayanan Advs.

CNR No. DLHC010140312025

\+ W.P.(C) 3380/2025 and CM APPL. 15981/2025

PREM CHAND GUPTA .....Petitioner

Through: Mr. Abhishek Garg and Mr. Naman Mehta, Advs.

versus

ADDITIONAL COMMISSIONER CGST DELHI WEST COMMISSIONERATE & ORS. .....Respondents

Through: Ms. Anushree Narain, SSC, Mr. Apurv Yadav and Mr. Naman Choula, Advs.

\# **CNR No. DLHC010140472025**

\+ W.P.(C) 3396/2025 and CM APPL. 16062/2025

ARUN KUMAR JAIN .....Petitioner

Through: Mr. Abhishek Garg and Mr. Naman Mehta, Advs.

versus

ADDITIONAL COMMISSIONER CGST DELHI WEST COMMISSIONERATE & ORS. .....Respondents

Through: Mr. Anurag Ojha, SSC with Mr. Dipak Raj, Mr. Aryaman Singh Chouhan and Mr. Aditya Chaudhary, Advs.

\# **CNR No. DLHC010181842025**

\+ W.P.(C) 4231/2025 and CM APPL. 19512/2025

ARUN SHARMA .....Petitioner

Through: Mr. Abhishek Garg and Mr. Naman Mehta, Advs.

versus

ADDITIONAL COMMISSIONER CGST DELHI WEST COMMISSIONERATE & ORS. .....Respondents

Through: Ms. Anushree Narain, SSC, Mr. Apurv Yadav and Mr. Naman Choula, Advs.

\# **CNR No. DLHC010274502025**

\+ W.P.(C) 6001/2025 and CM APPL. 27476/2025

ANIL JAIN .....Petitioner

Through: Mr. Akhil Krishan Maggu, Mr.

Vikas Sareen, Ms. Oshin Maggu, Mr. Aryan Nagpal, Ms. Palak Sarna, Advs.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Ms. Monica Benjamin, SSC with Ms. Laiba Arif & Ms. Prerika Narang, Advs.

\# **CNR No. DLHC010617122025**

\+ W.P.(C) 13065/2025 and CM APPL. 53535/2025

AMIT GUPTA .....Petitioner

Through: Mr. Abhishek Garg and Mr. Naman Mehta, Advs.

versus

ADDITIONAL COMMISSIONER CGST DELHI WEST COMMISSIONERATE & ORS. .....Respondents

Through: Ms. Anushree Narain, SSC, Mr. Apurv Yadav and Mr. Naman Choula, Advs.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MS. JUSTICE SHAIL JAIN

J U D G M E N T

ANIL KSHETARPAL, J.:

1. By way of this common judgment, this Court shall dispose of twelve (12) connected Writ Petitions preferred under Article 226 of the Constitution of India. The Petitioners assail the common Order-in-Original dated 06.02.2025 [hereinafter referred to as the ‘Impugned Order’], passed by the Additional Commissioner, CGST, Delhi West, imposing penalties under Sections 74, 76(2) and 122(1) of the Central Goods and Services Tax Act, 2017 [hereinafter referred to as the

'CGST Act], read with the corresponding provisions of the State/Union Territory enactments and the Integrated Goods and Services Tax Act, 2017 upon them.

2. The Impugned Order arises from common adjudicatory proceedings involving sixty-one (61) companies/firms and seventy-one (71) individuals connected with them. With respect to six (6) firms, the matter has been kept pending in view of the order passed by the High Court of Punjab and Haryana. The Petitioners before this Court are either Managing Directors or Directors of the concerned companies.

3. The Petitioners were issued Show Cause Notices in the year 2020 [hereinafter referred to as the 'SCNs'] in relation to the period from 01.07.2017 to 31.03.2019. The concerned companies were alleged to have fraudulently availed and utilised Input Tax Credit on the strength of invoices issued without any corresponding supply of goods.

4. Insofar as the Petitioners in their individual capacities are concerned, the SCNs did not propose any demand of tax against them. They were called upon to show cause as to why penalties should not be imposed upon them under Sections 74, 76(2) and 122(1) of the CGST Act for having allegedly masterminded the *modus operandi* involving generation, availment and utilisation of fraudulent Input Tax Credit.

5. By the Impugned Order, each of the Petitioners has been subjected to a penalty equivalent to the amount mentioned against his

name. The particulars of the Petitioners and the penalties imposed upon them are as follows:

S. No.	Name & Occupation (Director, Proprietor, MD, Partner)	Associated Firm	Amount of Ineligible ITC (in Rs.)				Amount to be appropriated (In Rs.)		
			CGST	SGST	IGST	Total	CGST	SGST	IGST
(I)	(II)	(III)	(IV)	(V)	(VI)	(VII)	(VIII)	(IX)	(X)
1	Rajeev Gupta, MD	M/s RCI Industries and Technologies 07AAACR5727Q2ZT	646552730	646552730	543802085	**1836907545**			
2	Rajeev Gupta, MD	M/s RCI Industries and Technologies 08AAACR5727QIZS	71477562	71477562	163586373	**306541497**			
3	Anil Kumar Jain, Director	M/s Jatalia Global Ventures Limited	379454823	379454823	118932135	**877841781**			
6	Anil Kumar Jain, Director	M/s Grimus Exports Pvt. Ltd.	90375077	90375077	0	**180750154**			
16	Arun Kumar Jain, MD	M/s B.C. Power Controls Ltd. 07AADCB4984A1ZV	301986227	301986227	0	**603972454**			
17	Arun Kumar Jain, MD	M/s B.C. Power Controls Ltd. 08AADCR4984A1ZT	8464546	8464546	12979402	**29908494**			
18	Arun Kumar Jain, MD	M/s. Smita Global Pvt. Ltd.	46044155	46044155	35606893	**127695203**			
22	Arun Sharma, MD	M/s Varun Foils Limited	2997738	2997738	45591740	**51587216**	2500000	2500000	
23	Prem Chand Gupta, Director	M/s. Prominent Metal	8560144	8560144	0	**17120288**			

		Private Ltd.								
26	Anil Kumar Jain, Real Incharge	M/s. Skyway Ventures Pvt. Ltd.	20780 384	20780 384	15406 165	**56966 933**				
51	Amit Gupta, Director	M/s. Progressiv e Alloys (India) Pvt. Ltd.	21151 69	21151 69	0	**42303 38**				
61	Vinay Mittal, Director	M/s AVA Resources Pvt. Ltd	23350 69	23350 69	0	**46701 38**				
65	Ravi Aggarwal, Director	M/s. Agsons Agencies (I) Pvt Ltd	48827 79	48827 79	0	**97655 58**				
67	Arun Kumar Jain, MD	M/s Bonlon Steels Pvt. Ltd. 07AAAC B6473H1 ZO	72980 127	72980 127	16716 641	**16267 6895**				
68	Arun Kumar Jain, MD	M/s. Bonlon Steels Pvt. Ltd. 08AAAC B6473H1 ZM	0	0	64040 089	**64040 089**				
69	Prem Chand Gupta, Director	M/s. Oyster Steel & Iron Pvt. Ltd	37088 728	37088 728	0	**74177 456**				
70	Prem Chand Gupta, Director	M/s. Worldwid e Metal Private Ltd.	69502 94	69502 94	0	**13900 588**				
71	Prem Chand Gupta, Director	M/s. Olympus Metal Pvt. Ltd.	41801 38	41801 38	0	**83602 76**				

6. Heard learned counsel representing the parties at length and with their able assistance, perused the paper books.

7. The principal contention of the Petitioners is that Section 122(1) of the CGST Act applies only to a "taxable person", whereas the Petitioners have neither been treated as taxable persons nor has any tax demand been raised against them in their individual capacities.

The Petitioners have also questioned the invocation of Sections 74 and 76(2) of the CGST Act, contending that no tax was payable or collected by them personally.

8. Learned counsel for the Respondents, on the other hand, submits that the Impugned Order is appealable under Section 107 of the CGST Act and that all such contentions may be examined by the Appellate Authority.

9. The issue concerning the applicability of Section 122(1) to a person who is not a taxable person is presently pending consideration before the Supreme Court. The Supreme *vide* order dated 04.08.2025 in Special Leave to Appeal (Civil) No.18178/2025 captioned ***Mukesh Kumar Garg v. Union of India and Ors.***, has passed the following order:

> *"1. Two primary contentions have been raised. First, Section 122(1) of the Central Goods and Services Tax Act, 2017 (for short 'the Act') would not be applicable to the petitioner as he is a non-taxable person. Secondly, the provisions of Section 122 (1A) of the Act which came into force w.e.f. 01.01.2021 cannot be applied retrospectively for the Assessment Years 2017- 2020.*
>
> *2. Leave granted.*
>
> *3. In the meanwhile, there shall be stay on the recovery of the amount directed to be deposited provided the appellant deposits 25% of the demand before the GST Department either through Electronic Ledger or through Cash Ledger."*

10. It needs to be clarified that only the first contention noticed in the aforesaid order bears upon the present batch of Petitions. Section 122(1A) was neither invoked in the SCNs nor employed in the Impugned Order against any of the Petitioners.

11. During the pendency of the present Writ Petitions, this Court

delivered its detailed judgment dated 31.07.2026 in W.P.(C) 8414/2026 captioned ***Gaurav Jain & Anr. vs. Joint Commissioner (Appeals-II) CGST Delhi Zone & Anr.*** and held that the proviso to Section 107(6), as substituted with effect from 01.10.2025, does not govern an Appeal arising from adjudicatory proceedings initiated through an SCN issued before that date. Such an Appeal continues to be governed by Section 107(6) as it stood on the date of commencement of the adjudicatory proceedings.

12. It is also not in dispute that an Appeal under Section 107 of the CGST Act is maintainable against the Impugned Order.

13. The respective SCNs were issued to the Petitioners in the year 2020, much before the substitution of the proviso to Section 107(6) with effect from 01.10.2025. Consequently, the appellate remedy available to the Petitioners is governed by Section 107(6) as it stood on the dates of issuance of their SCNs.

14. The principal issue raised by the Petitioners concerning the applicability of Section 122(1) of the CGST Act to a person who is not a "taxable person" is presently under consideration before the Supreme Court. Judicial propriety, therefore, warrants that this Court refrain from expressing any opinion on the said issue. The Petitioners have, however, raised several other grounds which involve examination of their respective roles, the allegations levelled against them and the material relied upon by the Adjudicating Authority. These matters can appropriately be examined in the statutory appellate proceedings.

15. In view of the above, the present Writ Petitions are disposed of with the following directions:

i. The Petitioners are relegated to the statutory remedy of Appeal under Section 107 of the CGST Act, read with the corresponding provisions of the applicable State/Union Territory enactments. All grounds urged in the present Writ Petitions are left open to be raised before the Appellate Authority.

ii. The issue concerning the applicability of Section 122(1) of the CGST Act to a person who is not a "taxable person" shall be considered in conformity with the decision ultimately rendered by the Supreme Court in ***Mukesh Kumar Garg v. Union of India and Others***.

iii. In view of the judgment of this Court in ***Gaurav Jain & Anr. v. Joint Commissioner (Appeals-II), CGST Delhi Zone & Anr.***, the requirement of pre-deposit shall be governed by Section 107(6) as it stood on the dates of issuance of the respective SCNs and not by the proviso substituted with effect from 01.10.2025.

iv. If the electronic portal does not permit any Petitioner to file an Appeal for want of an individual GST registration or temporary identification number, the Appellate Authority shall accept the Appeal in physical form and shall not reject it merely on account of the mode of filing.

v. If an application for exclusion of the period spent in these Writ Petitions before the High Court is filed for the purpose of limitation, the same shall be considered pragmatically by the Appellate Authority.

16. It is clarified that this Court has not expressed any opinion on the merits of the contentions raised by either party. All the present Writ Petitions, along with the pending applications, are disposed of in the aforesaid terms.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

AUGUST 13, 2026
s.godara/ad